Supreme Court, U.S.
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No. _____

In The

Supreme Court of the United States

—— ◆ ——

CHARLES AUGUST SCHLUND, III
and RANDY D. LANG,

Petitioners,

v.

THE UNITED STATES OF AMERICA, et al,

Respondents.

—— ◆ ——

On Petition For A Writ of Certiorari To The United States Supreme Court On Appeal from the Judgment on the United States Court of Appeals for the Ninth Circuit

—— ◆ ——

PETITION FOR A WRIT OF CERTIORARI

—— ◆ ——

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50 pp

QUESTIONS PRESENTED

#1. Whether the joint failure and refusal of the Central District Court and 9th Circuit Appellate Court to issue, per Petitioner's continuous written requests, findings of fact and conclusions of law is a gross departure from the normal and customary course of procedure and substantial violation of Petitioners' due process rights, thwarting Supreme Court review and eliminating a record for review by violating mandatory procedure, justifying the Supreme Court's supervisory review. (See, Appendix 3).

#2. Whether the District Court and Appellate Court's continuous absolute refusal to make findings and fact and conclusions of law, despite both Petitioners continuous written requests, was improper and a gross judicial retaliation after the court rejected Petitioner Schlund's verified and detailed factual Motion to Recuse the same judge for bias and prejudice (and Appellate Court's ratification) violated Petitioners' constitutional rights to a fair, objective, and impartial tribunal and right to an adequate record for review to the Supreme Court of the United States, requiring supervisory review by this Court.

#3. Whether the District and 9th Circuit Appellate Court's continuous joint failure and refusal to make any findings of fact and conclusions of law, in direct disregard of the Federal Rules of Civil Procedures, Rules 43, 52(c), 56 and 65 and Petitioners' repeated written request and Petitioners' request per Federal Rules of Evidence 201 (to take mandatory judicial notice of such requests and rules), caused prejudicial error by eliminating Petitioners' factual and legal basis for review by the Supreme Court under Supreme Court Rule 14(i)(h)(i)(ii) and (vi), justifying its supervisory review. (See Appendix 3).

#4. Whether the 9th Circuit Court of Appeals' refusal and failure to issue findings of fact and conclusions of law on any of Petitioners' appellate motions on appeal, per their continuous written requests, caused substantial prejudicial error and violated their constitutional due process and equal protection rights, leaving them without adequate record for review by the Supreme Court. (See, U.S. Sup. Ct. Rule 14 (h)(i)(ii) and (vi) ["...findings of fact and conclusions of law..."]).

#5. Whether the District Court's ratification over Petitioners' objection of the Government's fabrication of unsupported facts, lacking in foundation and with no affidavits or any other evidence and exclusively supported on irrelevant attorney ipse dixit opinion, contrary to Petitioner's verified evidence, and both District and Appellate Courts' continuous failure and refusal to comply with both Petitioners' continuous written requests for findings of fact and conclusions of law resulted in compounded prejudicial error, violating Petitioners' constitutional rights (See Appendix 3).

#6. Whether the District Court's deviation from stare decisis violates the standards of fair procedure rendering the judgment inconsistent with Petitioners' constitutional rights as a matter of law (See Appendix 3).

PARTIES TO THE PROCEEDING

The parties to this proceeding are Petitioners Charles August Schlund, III and Randy D. Lang, Attorney, and Respondent, the United States Government, Department of Justice, Drug Enforcement Agency.

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES SUPREME COURT

Appellant Charles August Schlund, III and Randy D. Lang, Attorney ("Petitioners") in Pro Per, respectfully petitions for a Writ of Certiorari to review the Judgment of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

The opinion of the Court of Appeals (Appendix No. 1) was ordered not for publication. The opinions of the District Court (Appendix No. 2) are unreported.

JURISDICTION

The Court of Appeals entered its decision on December 14, 2001 (Appendix No. 1). No Petition for Rehearing was filed. The jurisdiction of this court is invoked under 28 U.S.C. 1254(1).

STATUTORY PROVISIONS INVOLVED

Because the text of the citations are too voluminous, Petitioner hereby complies with Rules of the Supreme Court of the United States ("Rule") Rule 14(f). References are to U.S. Constitutional Provisions, Federal Statutes, Executive Issuances and include: the First, Second, Fourth, Fifth, Seventh, Ninth, Fourteenth and Seventeenth Amendments to the United States Constitution; Federal Torts Claim Act, 28 U.S.C. §§2671 through 2680; 28 U.S.C. §1346(b); 18 U.S.C. §1964; 42 U.S.C. §§1983 and 1988; Protection of Human Rights Act; The Convention Against Torture and Cruel, Inhumane or Degrading Treatment or Punishment of June 26,

1987; Federal Rules of Civil Procedure, Rules 43, 52, 56, 65 and Federal Rules of Evidence 201(b); and the conflicting decisions of (1) Celotex Corp. v. Catrett, 477 U.S. 317 (1986) [Summary Judgment]; Doran v. McGinness, 158 F.R.D. 383 (1994) ["mental telepathy mind control"]; and Siderman De Blak v. Republic of Argentina, 946 F.2d 1450 (9th Cir. 1991) [Torture by Government officials].

STATEMENT OF THE CASE

Factual Background

Under the Federal Torts Claim Act, 26 U.S.C. §§2671-2680; 28 U.S.C. §1356(b); 42 U.S.C. §§1983 and 1988; The Protection of Human Rights Act: The Convention Against Torture and Cruel, Inhumane, or Degrading Treatment or Punishment; and the Civil Rights Act all serve the purpose of holding responsible under civil and criminal law individuals who violate the individual rights guaranteed under the First, Second, Fourth, Fifth, Seventh, Ninth, Fourteenth, and Seventeenth Amendments of the Constitution of the United States which are intended to protect individual inalienable rights. These Acts have been integrated and are now known as the Electronic Communication Privacy Act of 1986 (18 U.S.C. §§2510-2520 (1988) [Title I]) and the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. §§2510-2520 (1968) [Title III]) and applied to other domestic statutes to the states as well, receiving federal funds which are omitted in the interests of judicial economy but reserved hereat as a matter of right.

There have been a few cases, Koyomejian, Siderman De Blak, Doran, of most importance, which have focused primarily on their application to the criminal context involving the use of electronic force technology to grossly

invade protected zones of rights to privacy and illegal electronic force torture under color of authority. And, illegal invasion of privacy as they apply to gross and excessive electronic technology invasions on the issues of (1) the gross intrusive degree of invasion of privacy through modern electronic force methods and (2) the use of modern or state-of-the art electronic technologies which are integrated for use of and to have the effect of physically and psychologically torturing individuals selectively targeted, including the torture of political witnesses against corrupt Government officials or those believing such illegal conduit is appropriate due to being compelled to accomplish same by supervisory order as lower echelon employees fearful of losing their status and jobs.

There are inconsistent Appellate decisions in the United States Appellate Courts' sparse publication of such extremely narrow opinions, and **there is a gross lack of continuity in the application of law in these areas nationwide, as applied to the civil arena** involving Governmental acts and conduct of a nature and degree classified under the category of "torture" and "gross invasion of privacy" now requiring Supreme Court Review and clarification for continuity of the application of law by attorneys in our nation and the government officials using these electronic technologies (See Appendix 3).

Appellant Schlund, an ex-United States Marine, was solicited by the United States Drug Enforcement Agency ("DEA") to participate in various activities of an illegal nature under color of authority. After receiving information about the activities, he refused. He was then set up by the DEA with fabricated evidence and arrested and charged as being an alleged drug manufacturer in Cave Creek, Arizona. The conspiracy by the DEA to fabricate the evidence was a

planned scheme designed to enable them to create a"pretext" for reasonable suspicion and probable cause for creating a joint investigation task force to place Appellant Schlund under surveillance, to violate his privacy and due process, remove Schlund as a witness to corruption in the DEA, and to violate other constitutional protection and those of whom he comes in contact with. Also, to discredit him as a political witness and utilize electronic surveillance for information gathering concerning all those with whom he comes in contact, violating other historical and constitutional rights of such person(s) including, but not limited to, the attorney-client privilege, physician-patient privilege, spousal privilege, clergyman-penitent privilege, privacy of voting privilege, privacy of association, privacy of speech, etc. The gross "electronic force" intrusions were also made of his body, personal residence, papers, affects and things. He asserts in his verified Complaint ("Complaint") and in many affidavits and documents filed in the case that during one or more of the episodes of electronic force torture, subcutaneous body implants of a CIA design were used by the DEA ("Electronic Implants") and separately various forms of electronic force vibration, sounds, magnetic fields, radio waves, and other known forms of torture have been imposed upon him through excessive "electronic force" commonly referred to as (excessive force) resulting in psychological and physical torture of Schlund as a form of retaliation and violation of his civil rights, causing him extensive losses and damages personally and in his commercial activities as pled in detail in his verified Complaint and corroborated in this case (See Appendix 3).

Petitioner Lang, an attorney, asserted a single declaratory relief cause of action, asserting the Government does not have the right to use sophisticated surveillance telecommunications activities and other integrated devices

and methodologies to violate his rights to privacy due to his association with Schlund or other members of the public or to harass, torture, or otherwise violate his or other third parties' rights of privacy with whom he associates, or violate protective privileges also set forth above based on Schlund's personal knowledge. Lang asserted the course of intervention for a declaratory judgment is necessary to prevent such violations under color of authority or retaliate against him for his association with Petitioner Schlund (See, Appendix 3), as well as the judicial necessity to clarify or modify existing law on this unique "electronic force" privacy intrusion issue of first impression due to it being recently exposed and rapidly burgeoning in exposure as to the government's use of such integrated computer etc. electronic technologies whose existence and use have been intentionally covered up and repeatedly denied by the Government but was, as always, later exposed then admitted to by it.

Although tedious and continuous efforts over a rather lengthy period of time, heavily cloaked in a convoluted myriad of distorted secrecy and public lies, the Government's illegal continuous violations of human rights and rights to privacy are being forced to the surface of truth by the courts (i.e., Koyomejian, Siderman De Blak, etc.). This includes its "scorched earth" policy of committing perjury, witness tampering, judicial coercion, and fabrication of evidence—all classified as contemptible "outrageous Government conduct" by the Hon. Judge Lacey (Id., infra).

Petitioner Schlund's Criminal Acquittal. Despite the fact the DEA violated their oath of office and federal and U.S. Constitutional laws while acting under the pretext of color of law for the purpose of fabricating evidence, perjured testimony, and other illegal acts outside the course and scope of their authority, and in violation of Petitioner Schlund's

constitutional rights (See Appendix 3), Petitioner set the matter for a jury trial. It was established at the trial that the Government used an alleged "informant" who lied to induce Schlund by means of illegal entrapment to come to the location of a laboratory under false pretenses. The laboratory was set up by the Government to suck Schlund into the entrapment posture to remove Schlund as a political witness against the DEA to conceal massive corruption in the DEA. Petitioner Schlund did go to the location, where he was recorded by electronic surveillance cameras and other integrated telecommunications related devices and methodology, showing Schlund performing various legal activities at the Government's (DEA) directions at the property located in Arizona (See Appendix 3). Petitioner Schlund then left the residence where the so-called laboratory was located and was followed by the joint task force of Government surveillance agents who then arrested him without a warrant and alleged on probable cause they believed he was operating an illicit methamphetamine laboratory (See Appendix 3).

Later, on January 3, 1979, Petitioner Schlund, after a jury trial, was "acquitted" in the United States Central District Court, Phoenix, Arizona of all charges of conspiracy, etc. related to the trumped up drug charges that were created to remove Petitioner Schlund as a political witness against the DEA. The Dept. of Justice ("DOJ") appealed that decision, and the decision was sustained in favor of Schlund by the 9th Circuit Court of Appeals (See Appendix 3).

NOTE BENE: Judge Lacey of the United States District Court aggressively and severely reprimanded the government officials that they were "in contempt" and demanded they be "arrested" for committing "perjury" and "obstructing justice in his court" and for fabricating evidence

against Petitioner Schlund. The acquittal was upheld on appeal; and on March 3, 1980, the DOJ and the DEA were advised by the United States Attorney General, Daniel R. Dray, there would be no further prosecution on the grounds of lack of evidence, and presumably because Judge Lacey noted there was "outrageous prosecutorial misconduct" which included withholding crucial evidence critical to Petitioner Schlund's defense (See Appendix 3).

Despite the acquittal, the conspiracy, illegal surveillance, illegal invasion of privacy, and the electronic force torture of Petitioner Schlund was and is continuous and ongoing to present (See Appendix 13). Petitioner Schlund has asserted in his verified Complaint and other corroborating documents that the DEA tortures him and continues to invade his privacy, based on personal knowledge he possesses relating to documentation he personally analyzed and reviewed with others, contained in files they collectively agreed would be called the "Don Boles Papers." Petitioner asserts he is a political witness and the electronic torture etc. is done to discredit him to protect the corrupt governmental officials who are involved in the corrupt activity of the Government's covert operations, which include influencing certain federal and state judges in the honorary judicial system.

Proceedings in the Central District and 9th Circuit Appellate Courts.

Petitioner Schlund filed a Motion to Recuse United States District Judge, the Honorable Robert C. Broomfield, based on his personal knowledge as set forth in Petitioner Schlund's Motion for Recusal and Affidavit in Support of the Motion. The judge was assigned to his case after the Honorable Rosalyn Silver recused herself on the grounds she

was an ex-United States Assistant Attorney in the DEA's office for over ten years (See Appendix 3), **although this was not disclosed by her** to Petitioners and later discovered by Petitioners.

On December 18, 1998, the Government filed its **two page** pleading entitled "Motion to Dismiss" or, Alternatively, "Motion for Summary Judgment," asserting **only** (1) no basis in reality existed as set forth in the verified Complaint and (2) that Petitioner Schlund could not prove the existence of the nature of the electronic technology used by the Government with any tangible or scientific evidence (See Appendix 3). Further, that because Lang's declaratory relief action was based on Schlund's facts alleged in the Complaint, it was not a viable cause of action (See Appendix 3). The Motion to Dismiss was denied. The Motion for Summary Judgment, **oddly enough**, was only supported by a ipse dixit, irrelevant attorney opinion statement intentionally asserting a lack of factual foundation, erroneously concluding such electronic technology and systems did not exist, which was misplaced based on Judge Silver's personal knowledge of (10) years as an ex-DEA attorney who obviously would not have silently recused herself if she didn't have such knowledge (See Appendix 3). The Government relied ex-clusively and solely on Plaintiff's detailed verified Complaint which asserts facts supporting each of the causes of action (See Appendix 3). **The Government did [not] submit a single foundational piece of evidence supporting any personal or other factual knowledge supporting the U.S. attorney's biased, prejudicial, and self-serving interest "opinion," contrary to the Verified Complaint - Affidavit. There literally is and was no factual basis for the attorney's opinion which is not evidence in any event sufficient to support a Motion for Summary Judgment** (See Appendix 3) or the court's failure to issue findings of fact and conclusions of law (See Appendix 3).

The Court entered judgment on the motion, despite Petitioners' objections and requests for findings of fact and conclusions of law (See Appendix 3).

On September 14, 1999, Petitioner filed a Motion for Reconsideration of the Court's Sept. 1, 1999, Order granting Summary Judgment and on September 30, 1999 filed Supplemental Points and Authorities in support of the motion. Petitioner **strenuously urges the Supreme Court to carefully focus on the Supplemental (Appendix No. 7) as it goes into great detail as to not only the triable issues of fact, but Supreme Court case law which supports Petitioner's position previously dealt with by this Court involving the wide range of scientific and other electronic-force technologies used not only by the United States Government but others as well.** See, Central Intelligence Agency v. John Cary Sims and Sidney M. Wolfe, 471 U.S. 159, 85 L.Ed. 2d 185 S.Ct. 1881 (1965) (Appendix Nos. 9 & 10). Petitioner abundantly laid out the avalanche of triable issues of material fact set forth in [their] verified Complaint which was exclusively relied upon by both the Petitioner and the Government (See Appendix 3). Obviously, since the verified Complaint was of the personal knowledge of Petitioner Schlund and which was further supported by numerous affidavits (See Appendix 3) and the Government lacked all personal knowledge of every nature and kind whatsoever, and the U.S. Attorney's self-serving opinion which is not evidence by any stretch of the means, especially when only asserted in the two page motion as a conclusion (See Appendix 3), the initial burden required under the Federal Rules of Civil Procedure, Rule 56 was not satisfied; and no burden shifted to the Petitioner to overcome the motion as a matter of law (See Appendix 3). On December 14, 1999, the District Court entered its Order denying Plaintiff's Motion for Reconsideration (See Appendix No. 3) to vacate its decision as prejudicial error and failed and

refused Petitioners' continuous request for findings of fact and conclusions of law (See Appendix 3).

Because the Government relied exclusively on the verified Complaint (as did Petitioner) and failed to file a separate Statement of Facts required under F.R.C.P. Rule 52 and 56, Petitioner was not procedurally required to file a formal Opposition; and Petitioner relied on his pleading on grounds the Government did not assert any issues relevant or actually involved as asserted in Petitioner's verified Complaint (See Appendix 3). Petitioner advised the court of this fact only for the purpose to explain that the Government did not file an answer to the verified Complaint, its Motion for Summary Judgment was based on facts not asserted in the verified Complaint but made up and fabricated by the Government ("mental telepathy," which was never pled), and the Petitioners had no controverting issues or arguments to its own verified pleading consisting of Schlund's own personal knowledge and corroborating evidence, solely relied upon by both the Government (void of personal knowledge or expertise and only relied on irrelevant attorney opinion) and the Petitioner. The Government did not file any opposition to Petitioner's Motion for Reconsideration on the facts or law (See Appendix 3). The District Court again failed and refused to issue findings of fact and conclusions of law, disregarding Petitioners' joint continuous written request (See Appendix 3).

Petitioners filed their Notice of Appeal and Appellants Opening and Reply Briefs (See Appendix 3) Petitioners filed an injunctive relief Notice and Motion for Order for Relief from Governmental Invasion of Privacy, Harassment and Torture of Petitioner Schlund on July 21, 2000 (See Appendix 3) to stop the irreparable harm which was summarily denied (See Appendix 3) on September 20, 2000, despite continuous written requests, and failed and refused to issue findings of

fact and conclusions of law (See Appendix 3). The Appellate Court then noticed the parties the court was ready for calendaring. The court continued to fail and refused to render findings of fact and conclusions of law as specifically requested in the motion (See Appendix 3).

Petitioners filed a Notice and Motion for Order for Clarification of Order of Denial of Plaintiff's Motion for Order for Relief on the grounds (1) the denial order did not specify the reasons for the denial adequate (or at all) for appeal or review to the U.S. Supreme Court (Rule 14(h)(i)(ii) and (vi) and as required under F.R.C.P. Rule 52 and 65, (2) the motion involved three distinct and independent reasons for the granting of such motion, relative to the different causes of action asserted by the separate Petitioner's positions on appeal on the merits, (3) the denial of the motion without specific reason leads to the awkward impression the court is intentionally disregarding the testimony under oath and ratifying the electronic torture of Petitioner Schlund, and (4) both Petitioners specifically requested findings of fact and conclusions of law in support of the motion for an adequate record for further review by special writ (Certiorari), which violated Petitioner's due process and equal protection rights, resulting in gross prejudicial error by depriving the Petitioners a record for appeal to the United States Supreme Court on the injunctive and other issues (See Appendix 3).

Both lower courts have possibly deviated from the historical rule to follow case precedent stare decisis to the extent to which the interpretation has been fixed in the fabric of law (i.e. Koyomejian, Siderman De Blak, and Celotex) (See Appendix 3). Noteworthy: White v. Bateman, 89 Ariz. 110, 358 P.2d 712 (1989).

Petitioner filed a Notice of Request for Oral Argument (See Appendix 3), along with a Notice of Request for Disclosure of Case Classification (See Appendix 3) related to the case under Federal Rules of Appellate Procedure, "Court Structure and Procedures," E [Court Procedures for Processing and Hearing of Cases] (1) Classification of Cases by Type, Issue, and Difficulty. Petitioners were concerned that the "weight of a case" is not merely an indication of the relative amount of judicial time that will probably be consumed, summarily disposing of the appeal but the fact it is possibly a "pretext" under the Rule for the unconstitutional and improper discriminatory "profiling" of a case selectively targeted for dismissal without any findings of fact and conclusions of law, such as here. All of the aforesaid were either (1) not responded to at all by the Ninth Circuit Court of Appeals or (2) summarily "denied" without the repeatedly written requests for findings of fact and conclusions of law under F.R.C.P. Rule 52, 56, 65 etc. (See Appendix 3).

Petitioners filed a Notice and Motion for (1) Order of Suspension of Motion Deadline and (2) Motion for Summary Judgment, or Alternatively, (3) Partial Adjudication of the Facts (See Appendix 3), which was also summarily "denied" by the Appellate Court. Again, the Appellate Court failed and refused to issue mandatory findings of fact and conclusions of law for Supreme Court review (Rule 14 and Appendix 3), despite Petitioners noticed the Court in writing they would seek Supreme Court review.

The verified Complaint specifically requested findings of fact and conclusions of law (See Appendix 3) and continuously requested such findings of fact and conclusions of law in every pleading and brief filed with the District and Appellate Court and has never been waived (See Appendix 3).

Despite these continuous written and repeated requests for findings of fact and conclusions of law, all have been rejected by the District and Appellate Court by failing and refusing to comply with F.R.C.P. Rules 43, 52(c), 56, 65, Restatement 702, and Rule 14(i)(ii) and (iv) of the U.S. Supreme Court Rules of Procedure.

Petitioners have no adequate record for the Supreme Court to review per Supreme Court Rule 14(h)(i)(ii) and (vi) due to judicial conduct of the lower court projecting the appearance **of judicial** retaliation resulting in deprivation of constitutional rights (See Appendix 3) and the Appellate court appearance of ratifying same, with no disrespect intended to either court.

REASONS FOR GRANTING THE PETITION

As it stands, the Ninth Circuit Court of Appeals has entered decisions in conflict with the decision of previous cases it decided by simply refusing to respond to the important issues raised in Petitioner's verified Complaint, Appellate Briefs and Motions (1) which are directly in conflict with United States Supreme Court decisions and other circuit courts on the same or similar important matter; (2) the District Court and Ninth Circuit Court of Appeals failed to decide important federal questions of genuine issues of material fact based on constitutional and federal statutes prohibiting (a) invasion of privacy etc. and (b) torture of a citizen; and (3) the District Court and the Court of Appeals has so far departed from the accepted and usual course of judicial proceedings, or the Appellate Court supported such a departure by the Central District Court as to now call for an exercise of this Court's discretion of its supervisory power to compel the Ninth Circuit Court of Appeals to make findings of fact and conclusions of law for a proper appellate record,

to allow Petitioners to exercise their due process rights pursuant to the Rules of the Supreme Court of the United States, Rule 14(1)(h)(i)(i)(ii) [This Rule specifically requests the Appendix contain the order indicating the "findings of fact and conclusions of law," whether written or orally given and transcribed, entered in conjunction with the judgment sought to be reviewed, and any other "findings of fact and conclusions of law" entered in the case.]

Petitioner's due process rights have been effectively cut off by not having findings of fact and conclusions of law from which to present to the United States Supreme Court for its review, despite they were repeatedly requested by Petitioners continuously in writing, and **never waived** (See Appendix 3). Likewise, Petitioner specifically requests the Honorable United States Supreme Court for findings of fact and conclusions of law for purposes of this review as well.

A. The Court Erred in Interpreting The Supreme Court's Decision of Celotex Corp. v. Catrett and Failed to Make Findings of Fact and Conclusions of Law, Despite Petitioners Requested Such For Review on Appeal to the Supreme Court.

This Supreme Court, in the Celotex Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548 (1986) court decision established the controlling standard and initial evidence shifting standard on Motions for Summary Judgment under F.R.C.P. Rule 56(c)..."The judgment sought shall be rendered forthwith **if the pleadings....together with affidavits**, if any, show there is no genuine issue as to any material fact; and the moving party is entitled to a judgment as a matter of law..." Under (e) [Form of Affidavits], "Supporting an opposing affidavit should be made on **personal knowledge**, shall set

forth fact as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matter stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith...when a Motion for Summary Judgment is made and supported as provided in this Rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response...must set forth specific facts showing there is a genuine issue for trial..."

The form of affidavit exclusively relied upon by the Government was the exact same affidavit which was glutted with specific verifiable articulated facts based on personal knowledge of Petitioner Schlund and other affidavits and corroborating documents filed with the Court with repeated requests for judicial notice (Rule 201) and relied upon by Petitioners—a pleading—Petitioner's verified Complaint (See Appendix 3). Petitioners have personal knowledge of the facts stated in the verified Complaint, while the Government did not (See Appendix 3).

The Government did not satisfy the requirement under Rule 56(e), made and supported as provided in this Rule, an adverse party (Government) may not rest upon the mere allegations ... of the adverse [Government] party's pleading..." as the Government did here. Thus, the Government has the "initial" burden of filing their Motion for Summary Judgment, made and supported as provided in the Rule, which requires it cannot exclusively rest upon the mere allegations of Petitioner's verified Compliant (Affidavit) for doing so. The Government placed its lack of personal knowledge, lack of foundation, and nothing more than merely the ipse dixit (the Assistant Attorney General's personal opinion and conclusion), which is not evidence, leaving the Government

in a position of not satisfying the initial burden under Rule 56(e) (See Appendix 3). The court's granting of the Motion for Summary Judgment, declaring there were no triable issues and material fact was prejudicial error, requiring reversal (See Appendix 3).

The District Court and the Ninth Circuit Court of Appeals, upholding the decision, placed the Celotex decision in direct conflict with the United States Supreme Court's decision in Matsushita Electric Industry Co. v. Zenith Radio Corp. 475 U.S. 574, 587 (1986), **"The initial burden is with the movant to point to those portions of the record that demonstrate an absence of a genuine issue of material fact given the relevant substantive law."** Also citing Thomas v. Wichita Coca Cola Bottling Co., 968 F.2d 1022 (10th Cir.) cert. denied, 506 U.S. 1013 (1992), which requires the court to view the evidence of the record and draw all reasonable inferences in the light most favorable to the non-movant (Petitioners). Importantly, this Supreme Court's decision in Matsushita was rendered irrelevant and useless by both the lower and appellate courts disregarding the movants' (Government's) "initial burden" requirement to "point to those portions of the record that demonstrate an absence of a genuine issue of material fact given the relevant substantive law" (Id.). It effectively never shifted the procedural machine into the "initial" gear. It did not:

a. "point to those portions of the record

b. that demonstrate

c. an absence

d. of a genuine issue

e. of material fact

f. given the relevant

g. substantive law."

It only fabricated facts of "mental telepathy" and then cited a single Doran case on mental telepathy "mind control" (See Appendix 3). Nor can a party make a Motion for Summary Judgment relying on "conclusionary allegations," especially with nothing more than inadmissable attorney opinion and conclusions such as here.

In other words, Petitioners filed a specific and detailed Motion for Summary Judgement in the Appellate Court (See Appendix 3) requesting findings of fact and conclusions of law to compel the Ninth Circuit Court of Appeals to establish a record for Petitioners supporting, in fact, there were genuine material issues of fact raised in the verified Complaint pled on the personal knowledge of Petitioner Schlund, contrary to the mere attorney opinion filed in the District Court based on Celotex. Instead of flushing out the truth of what genuine issues of material fact did or did not exist, both the District Court and the Ninth Circuit Court of Appeals failed and refused to issue findings of fact and conclusions of law, despite being repeatedly requested by Petitioners at every stage in the proceedings, which have never been waived (See Appendix 3) for Supreme Court review.

Petitioners can only conclude the honorable District Court and the Ninth Circuit Court of Appeals Court simply did not know what to do in a perplexing situation in which both the Plaintiff and the Defendant move for Motions for Summary Judgment relying on exactly the same verified pleading, such as here (See Appendix 3) [At the District Court

level, the Government relied on Petitioner's verified pleading and moved for Summary Judgment on attorney's opinion; and Petitioner's move for Summary Judgement, at the Appellate level, on the same set of pleadings, requesting findings of fact and conclusions of law, at both stages of the proceedings both courts failed and refused to accommodate the request because of the reliance on this Court's Celotex decision and its previous Ninth Circuit's decisions, which have never dealt with this type of factual scenario. This case is a case of first impression, requiring the United States Supreme Court to exercise its discretion and use its supervisory powers so there is continuity in the application of its decisions concerning motions for summary judgement and application of the shifting evidence burdens under Celotex which have deprived Petitioner of a right to jury trial (See Appendix 3), such as here (See Appendix 3).

B. The District Court Greatly Departed from the Accepted and Usual Course of Judicial Proceedings, which the Appellate Court Ratified When it Accepted the Government's Fabrication of Fact to the Doran Case and Then Refused to Make Findings of Fact and Conclusions of Law, Re-quested by Petitioners, Requiring the Exercise of the United States Supreme Court Supervisory Power to Protect Petitioner's Constitutional Rights.

The Ninth Circuit Court of Appeals in Siderman De Blak v. Republic of Argentina [Torture], and the United States v. Koyomejian, 946 F.2d 1450 (1991) [Gross Intrusion and Invasion of Privacy through sophisticated electronic telecommunication devices] should be interpreted together in support of Petitioner's Motion for Summary Judgement filed

with the Ninth Circuit Court of Appeals requesting findings of fact and conclusions of law on that issue, which it failed and refused to do (See Appendix 3). The Ninth Circuit Court of Appeals has stated "such technology does in fact exist, irrespective of whether it ignored by the lower court" (See Appendix No. 3).

The Ninth Circuit Appellate Court clearly acknowledged the factual reality of the Government's gross misuses of electronic "technology and devices" to violate innocent citizens privacy and "its" use of "torture" by the Government on its citizenry (See Appendix 3). See, Koyomejian and Siderman De Blak. The United States Supreme Court in Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986) again established, after its Celotex decision that "the evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor." The Government's exclusive reliance on Petitioner's verified Complaint constitute a stipulation or adverse party admission by the Government that the additional factual averments, along with all justifiable inferences, were to be drawn in favor of the Petitioner, not reached in the Government's partial Motion for Summary Judgment. The Ninth Circuit Court of Appeals issued its grave concerns about the Government's use of such technology, the fact of its existence, and then failed and refused to issue Petitioner's findings of fact and conclusions of law as to whether such technology could, was, and is actually being used to not only invade privacy but to be used more modernly as "electronic force" to torture Petitioner Schlund, causing the injury and damages as pled in his verified Complaint (See Appendix 3). Petitioner Schlund has continuously objected in writing to various governmental departments, including but not limited to the DOJ and DEA, about the electronic force and invasion problem but also to the courts concerning the torture of him, his witnesses, and

his attorney and altering of evidence (See Appendix 3). The Government has admitted and conceded to the facts alleged then strategized to create facts not alleged or at issue to connect to one appellate case irrelevant to the present concerns (See Appendix 3).

Instead it switched the facts, claiming Petitioners pled "mental telepathy" and cited the Doran v. McGinness case as controlling and moved for Summary Judgment, based on Celotex. Judge Broomfield failed to recuse himself, although no opposition was ever filed to Petitioner's Motion for Recusal then granted Summary Judgment and failed and refused Petitioner's repeated request for findings of fact and conclusions of law on the basis of its decisions (See Appendix 3). Then again upheld its decision on the basis of its decision.[1]

1

With no disrespect intended to any court:

Attorney: "Court, can I go to the store?"

Court: "No."

Attorney: "Why?"

Court: "Because I said so."

Attorney: "But I need to know the reasons why on the record [findings of fact and conclusions of law] for review to a higher power— the United States Supreme Court."

Court: "No."

It ignored the facts stated on Petitioner Schlund's personal knowledge in his verified Complaint and affidavits in support and in opposition to the Summary Judgment, it accepted the Government's conclusionary opinions the Complaint alleged "mental telepathy" when it clearly did not, and it allowed the application of the Doran decision to control on "mental telepathy," where no such factual issues were raised in the verified Complaint or anywhere else by Petitioners. Thus, it grossly departed from the normal rules of procedure and fairness and allowed the creation of facts which didn't exist and attached controlling law which was not at issue to such facts and deliberately entered an order dismissing the action, depriving Petitioners of a right to a jury trial, which has also never been waived (See Appendix 3).

Needless to say, such grave departure and ratification of same by the Appellate Court have the effect of ratifying not only torture, gross invasion of privacy, denial of a right of a jury trial through procedural gainsmanship, but also have resulted in giving the appearance of gross impropriety and destruction of the appearance of justice so cherished by the honorable court system. Moreover, the gross departure by both the lower and Appellate Court of the United States Supreme Court's rules (Rule 14(h)(i)(ii) and (vi), federal law, and case law decisions against torture and other violations of constitutional right, including its Supreme Court rules for procedure for the lower courts to follow (F.R.C.P. 43, 52, 56 and 65) and Fed. R. Evid. Rule 201(b) (also a procedural rule), now necessitate the discretion of the honorable United

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Attorney: "Why? It's my procedural due process right."

Court: "Because I said no earlier. Good luck."

States Supreme Court to clarify for the lower courts such departures should not be tolerated at the cost of its citizenry and the dignitary powers of the United States Supreme Court's rules, case law, and the federal enactments and provide continuity again for attorneys and the courts to follow.

CONCLUSION

The Petition for Writ of Certiorari should be granted. Petitioners request the Court to vacate the Central District and Ninth Circuit Court of Appeals' decisions and order it to make findings of fact and conclusions of law for an adequate record for the Supreme Court's review if it becomes necessary in the interests and appearance of justice and to protect the integrity of justice.

Respectfully submitted,

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Appendix 1

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CHARLES AUGUST SCHLUND, III; RANDY D. LANG,	)	No. 00-15126
	)	D.C. No. CV-98-
Plaintiffs-Appellants,	)	1875-RCB
v.	)	
	)	MEMORANDUM[1]
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant-Appellee.	)	

Appeal from the United States District Court
for the District of Arizona
Robert C. Broomfield, District Judge, Presiding

Submitted December 4, 2000[2]

Before: TROTT, GRABER, and McKEOWN, Circuit Judges

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[1] This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by 9th Cir. R. 36-3.

[2] The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Charles August Schlund, III and Randy D. Lang appeal pro se the district court's summary judgment in favor of the defendant and the denial of their Federal Rule of Civil Procedure 59(e) motion to amend or alter the district court's summary judgment. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo the grant of summary judgment, *see Wallis v. J.R. Simplot Co.*, 26 F.3d 885, 88 (9th Cir. 1994), and for abuse of discretion the district court's denial of a motion to amend the judgment pursuant to Federal Rule of civil Procedure 59(e), *see School Dist. No. 1J, Multnomah County v. AC and S, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). We affirm.

Because there were no genuine issues of material fact, the district court properly granted summary judgment. *See Warren v. City of Carlsbad*, 58 F.3d 439, 441 (9th Cir. 1995).

Because appellants' motion failed to demonstrate that they were entitled to relief from the district court's grant of summary judgment, *see* Fed. R. Civ. P. 59(e), the district court did not abuse its discretion by denying appellants' motion to amend or alter judgment, *see School Dist. No. 1J, Multnomah County*, 5 F.3d at 1262-63.

Appellants' pending motions are denied.

AFFIRMED.

Charles August Schlund III
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Glendale, AZ 85302

ph
00-15126

APPENDIX NO. 2

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

CHARLES AUGUST SCHLUND, III, et al,	)	
Plaintiffs,	)	No. CIV 98-1875
vs.	)	PHX RCB
THE UNITED STATES OF AMERICA; et al.	)	ORDER
	)	(Dated 12/14/99)
Defendants.	)	

Pending before the court is Plaintiffs' motion for reconsideration of an order granting Defendants summary judgment. Having carefully considered the arguments raised by Plaintiffs, the court now rules.

I. BACKGROUND

Plaintiffs filed this action pursuant to the Federal Tort Claims Act, alleging that Defendants implanted receiving and transmitting devices within Plaintiff Charles Schlund's body for the purpose of discrediting him as a witness and to monitor conversations between he and Plaintiff Randy Lang. Defendants moved for summary judgment on December 18, 1998, and Plaintiffs did not file a response to the motion. Finding Defendants' motion facially meritorious, the court granted summary judgment for the Defendants on September 1, 1999.

II. STANDARD OF REVIEW

Plaintiff does not specify whether his motion is pursuant to Fed. R. Civ. P. 59(e) or Fed. R. Civ. P. 60(b). However, even under the more liberal Rule 59(e), motions for reconsideration are disfavored and only appropriate if the court "(1) is presented with newly discovered evidence; (2) committed clear error or the initial decision was manifestly unjust; or (3) if there is an intervening change in controlling law." School Dist. No. 1, Multnomah County, Oregon v. AC and S, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993). A motion for reconsideration is not the place for Plaintiffs to make new arguments not raised in their original brief. See All Hawaii Tours, Corp. V. Polynesian Cultural Ctr., 116 F.R.D. 645, 650 (D. Haw. 1987), rev'd on other grounds, 855 F.2d 860 (9th Cir. 1988). Nor is it the time for Plaintiffs to ask the court to rethink what it has already thought. See, Above the Belt, Inc. v. Mel Bohannan Roofing, Inc., 33 F.R.D. 99, 101 (E.D. Va., 1983).

III. DISCUSSION

Plaintiffs urge reconsideration of the court's order granting summary judgment based on two grounds: (1) Defendants did not follow the proper procedure in moving for summary judgment; and (2) newly filed evidence supports Plaintiffs' assertion that mind control devices exist. The court will discuss each argument separately.

A. Defendants' Procedure in Moving for Summary Judgment

Plaintiffs argue that the court committed clear error in granting Defendants' motion for summary judgment because Defendants: (1) did not set forth personal knowledge or specific facts admissible in evidence, as required by Fed. R. Civ. P.

56(e); (2) relied on assertions from Plaintiffs' Complaint as facts; and (3) did not include a separate statement of facts, as required by Local Rule 1.10(1)(1). Plaintiffs assert that Defendants' procedural inadequacies precluded them from formulating a response.

The "party seeking summary judgment always bears the initial responsibility of informing the district court of the basis for its motion and identifying those portions of 'the pleadings [and other discovered information]' which it believes demonstrate the absence of a genuine issue of material fact." Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). When the "nonmoving party will bear the initial burden of proof at trial on a dispositive issue," the moving party may properly move without affidavits or other materials negating the non-moving party's claim. Id. at 323. Once the moving party requests summary judgment, the burden of demonstrating that a genuine issue of material fact exists shifts to the non-moving party, which must do so via depositions, answers to interrogatories, admissions or affidavits, but not the mere allegations of the pleadings. See id. at 324; Fed. R. Civ. P. 56(e).

All three of Plaintiffs' arguments relate to Defendants' failure to set forth any evidence in support of their motion for summary judgment. Although Defendants did not set forth any separate statement of facts and evidence in support of their motion, they cited allegations in Plaintiffs' Complaint and argued that these allegations had no basis in reality and that Plaintiffs could not prove the existence of the claimed devices with any tangible or scientific evidence. Defendants' method of moving for summary judgment was proper under Celotex and Rule 56.

In sum, the court finds that it committed no error in granting Defendants' motion for summary judgment. Defendants' choice not to support their motion with supporting

affidavits was proper, and their motion was sufficient to allow a response from Plaintiffs.

B. Newly Filed Evidence

To prevail on an argument of newly discovered evidence, Plaintiffs must show that the evidence: (1) existed at the time summary judgment was granted; (2) could not have been discovered; and (3) was of such magnitude that it would have been likely to change the disposition of the case. See Jones v. Aero/Chem Corp., 921 F.2d 875, 878 (9th Cir. 1990).

Plaintiffs have submitted numerous documents, entitled "Exhibits A through I," in support of their motion for reconsideration. The vast majority of these pages consist of information that existed before the date Defendants filed for summary judgment, thus satisfying the first prong of the above-stated test. However, most of the documents indicate that they were published, and therefore discoverable, prior to the date of Defendants' filing. Plaintiffs included a few Internet sources that do not indicate when they were originally published or uploaded to the world-wide web. However, these documents refer to other sources that were published and discoverable before Defendants filed for summary judgment. Thus, the court finds that Plaintiffs' supporting documentation was discoverable when Defendants filed their motion for summary judgment.

The court also finds that Plaintiffs' exhibits fail to support their assertion that mind control technology exists. The exhibits are comprised of patent records for various devices, case transcripts involving the United States as a Defendant, and various Internet sources claiming to document the government's past attempts to control its citizenry. The latter two types of documents would be inadmissible at trial. Also, the majority of

patent records appear to have little to do with mind control, but rather deal with devices more relevant to the medical profession.

The court finds that Plaintiffs' newly filed evidence cannot be characterized as "newly discovered evidence." While most of the documentation existed before Defendants moved for summary judgment, the information was also discoverable at that time. Moreover, the documentation does not support Plaintiffs' assertion that mind control technology exists.

Having found no intervening change in controlling law, no clear error by the court or manifest injustice, and no newly discovered evidence, the court will deny Plaintiffs' motion for reconsideration.

IT IS ORDERED denying Plaintiffs' motion to reconsider summary judgment, filed September 14, 1999 (doc. 11).

DATED this 9th day of December, 1999.

/s/
Robert C. Broomfield
United States District Judge

Copies to pro se plaintiffs and counsel of record

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

CHARLES AUGUST SCHLUND, III, et al,	)	
Plaintiffs,	)	No. CIV 98-1875
vs.	)	PHX RCB
THE UNITED STATES OF AMERICA; et al.	)	ORDER
	)	(Dated 8/31/99)
Defendants.	)	

Pending before the court are Defendants' Motion to Dismiss and Defendants' Alternative Motion for Summary Judgment. Having carefully considered the arguments raised, the court is now prepared to rule on the motions.

I. BACKGROUND

On October 16, 1998, Plaintiffs filed Federal Tort Claims Act ("FTCA") claims against the United States of America and the U.S. Drug Enforcement Administration. Plaintiff Charles Schlund's claims are based on the factual allegation that:

> Complex micro receiving and transmitting implants were placed into Schlund's body for purposes of harassing and monitoring [his] speech, movements, and activities and

> for purposes of torturing and controlling [him] by torturing or otherwise punishing him through physical torture or/and mental torture of sleep deprivation and pain and suffering throughout his body, through use of highly sophisticated technologies, which included, but was not limited to, laser and electromagnetic technologies.

(Comp. ¶ 28.) Mr. Schlund alleges that Defendants implanted these devices to discredit him as a witness to the following: (1) the government's covert operations that have caused millions of Americans to suffer from Chronic Fatigue Syndrome, Epstein Barr Virus, Agent Orange Illness, and Persian Gulf Illness; and (2) the government's assassinations of John F. Kennedy, Robert F. Kennedy, Mary Jo Kopeche, Martin Luther King, and thousands of others. (Id. ¶ 30).

Plaintiff Randy Lang's claims are based on the same factual allegation that Defendants implanted "complex micro receiving and transmitting implants" into Mr. Schlund's body. Mr. Lang alleges that he associates with and engages in private conversations with Mr. Schlund and that the devices implanted into Mr. Schlund are utilized to overhear and invade these conversations. (Id. ¶ 56.)

II. LOCAL RULE 1.10(i)

Plaintiffs failed to file a response to Defendants' motions. Local Rule 1.10(i) allows the court to summarily grant those motions where the adverse party fails to respond. In relevant part the rule states: "[I]f the opposing party does not serve and file the required answering memoranda. . .such non-compliance may be deemed a consent to the denial or granting of the motion and the Court may dispose of the motion summarily." However, the Ninth Circuit has articulated a requirement that

such motions be facially meritorious. See, Henry v. Gill Indus., 983 F.2d 943, 950 (9th Cir. 1993). As such, the court will examine Defendants' motion to determine if it meets this standard.

III. MERITS OF DEFENDANTS' MOTIONS

Defendants move for summary judgment and to dismiss Plaintiffs' complaint. The court will first consider Defendants' motion for summary judgment.

A. STANDARD OF REVIEW ON A MOTION FOR SUMMARY JUDGMENT

To grant summary judgment, the court must determine that in the record before it there exists "no genuine issue as to any material fact" and, thus, "that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). In determining whether to grant summary judgment, the court will view the facts and inferences from these facts in the light most favorable to the nonmoving party. Matsushita Elec. Co. V. Zenith Radio Corp., 475 U.S. 574, 587, 106 S. Ct. 1348, 1356 (1986).

The mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no genuine issue of material fact. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48, 106 S. Ct. 2505, 2510 (1986). A material fact is any factual dispute that might affect the outcome of the case under the governing substantive law. Id. At 248, 106 S. Ct. At 2510. A factual dispute is genuine if the evidence is such that a reasonable jury could resolve the dispute in favor of the nonmoving party. Id. A party opposing a motion for summary judgment cannot rest

upon mere allegations or denials in the pleadings or papers, but instead must set forth specific facts demonstrating a genuine issue for trial. See, id., at 250, 106 S.Ct. At 2511. Finally, if the nonmoving party's evidence is merely colorable or is not significantly probative, a court may grant summary judgment. See, e.g., California Architectural Build. Prods., Inc. v. Franciscan Ceramics, 818 F.2d 1466, 1468 (9th Cir. 1987), cert. Denied, 484 U.S. 1006, 108 S.Ct. 698 (1988).

B. DISCUSSION

Although Defendants move for summary judgment, they rely solely on the facts contained in the complaint. Defendants contend that they are entitled to summary judgment because the facts alleged by Plaintiffs in support of their claims have no basis in reality.

Defendants cite Doran v. McGinness, 158 F.R.D. 383 (E.D. Mich. 1994), in support of their motion for summary judgment. In that case, the district court was presented with claims similar to those raised by Plaintiffs here. The plaintiff claimed that prison officials implanted a mind control device in his head and used it to control his thoughts and actions. Id., at 388. The court took judicial notice of the fact that such technology did not exist and granted Defendants summary judgment on the claim. Id., at 388 & n.1. In so ruling, the court stated:

> [T]he court fully understands that technology marches on, and that mechanisms thought impossible in an earlier age are now common. However, unless and until a litigant can produce tangible or scientific evidence that shows the existence of a "telepathic mind control device" or at least the technology to produce it, this court shall recognize no legal obligation to be gullible.

> Courts need not entertain claims founded upon beliefs which are so obviously bizarre and illusory.

Id. at 388.

The court finds Defendants' motion for summary judgment facially meritorious. Because Plaintiffs have offered no tangible evidence that the technology they allege exists in reality, this court will take judicial notice that such technology does not in fact exist. The court will not give credit to facts such as Plaintiffs have alleged that have no "recognizable basis in reality." Doran, 158 F.R.D. at 388 n.1. Therefore, no genuine issue of material fact exists and Defendants are entitled to judgment as a matter of law.

IT IS ORDERED granting Defendants' Motion for Summary Judgment, filed December 18, 1998 (doc. 6-2). The Clerk of the Court is directed to enter judgment accordingly.

IT IS FURTHER ORDERED denying as moot Defendants' Motion to Dismiss, filed December 18, 1998 (doc. 6-1).

DATED this 15th day of April, 1999.

/s/
Robert C. Broomfield
United States District Judge

Copies to pro se plaintiffs and counsel of record

APPENDIX 3

List of Petitioners' (Appellants) Briefs and Motions Filed In District Court and 9th Circuit Court of Appeals - All Summarily Denied - Without Findings of Fact and Conclusions of Law

No.	Document Name
1.	Appellant (Petitioner's) Opening Brief (Ninth Circuit)
2.	Appellant (Petitioner's) Reply Brief (Ninth Circuit)
3.	Petitioner's Verified Complaint
4.	Government's Two-Page Motion for Summary Judgment (no affidavits or other evidence was submitted with this two page motion)
5.	Petitioners' Notice and Motion for Reconsideration and Supplemental Points and Authorities (Dist. Ct.)
6.	Appellants (Petitioner's) Notice and Motion for Order for Relief from Governmental Invasion of Privacy, Harassment, and Torture of Schlund [Injunctive Relief] and Court's Order thereon (attached)
7.	Appellants (Petitioners') Notice and Motion for Clarification of Order of Denial of Appellants' Motion for Injunctive Relief and Order

Index (Con't)

No. **Document Name**

8. Appellants (Petitioners') Notice of Request for Oral Argument and Supporting Reasons for Same (this is a detailed assertion for need of clarity due to the conflict in Appellate Court decisions in interpreting the evidentiary step requirements under rule 56 and the Celotex analysis)

9. Appellants (Petitioners') Notice of Request for Disclosure of Case Classification Related to Case (this request was made by Appellants to ascertain whether Ninth Circuit Court of Appeals is discriminating statistically by "profiling" such cases and targeting them for general dismissal without findings of fact and conclusions of law, in violation of constitutional rights to trial and other due process violations on appeal)

10. Appellants (Petitioners') Notice and Motion for Summary Judgement or, Alternatively, Partial Adjudication of the Facts (this motion specifically targeted the fabrication of facts by the Government and its application of Doran v. McGinness to those facts and Court's order thereon.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHARLES AUGUST SCHLUND, III, et al,	)	No. 00-15126
Plaintiffs-Appellants,	)	DC# CV 98-1875-RCB
vs.	)	Arizona (Phoenix)
THE UNITED STATES OF AMERICA; et al.	)	ORDER
	)	(Filed 09/20/00)
Defendant-Appellee.	)	

Before: WALLACE and FERNANDEZ, Circuit Judges

Appellants' "motion for relief from governmental invasion of privacy, harassment, and torture" is construed as a motion for injunctive relief. So construed, the motion is denied.

This case is ready for calendaring.